

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE MOTOR VEHICLE LIABILITY LIMITS FOR INSURANCE PURPOSES; PROVIDING AN INFLATION INDEX; AMENDING SECTIONS 61-6-103 AND 61-6-138, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-6-103, MCA, is amended to read:

"61-6-103. Motor vehicle liability policy defined. (1) A "motor vehicle liability policy", as the term is used in this part, means an owner's or operator's policy of liability insurance, certified as provided in 61-6-133 or 61-6-134 as proof of financial responsibility and issued, except as otherwise provided in 61-6-134, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named ~~therein~~ in the policy as insured.

(2) The owner's policy of liability insurance must:

(a) designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is ~~thereby~~ to be granted; and

(b) (i) insure the person named ~~therein~~ in the policy and any other person, as insured, using any motor vehicle or motor vehicles with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of the motor vehicle or motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each motor vehicle, as ~~follows~~ provided in this subsection (2)(b)(i) and adjusted as provided in subsection (2)(b)(ii):

~~(i)(A) \$25,000~~ \$50,000 because of bodily injury to or death of one person in any one accident and subject to ~~said~~ the limit of \$50,000 for one person;

~~(ii)(B) \$50,000~~ \$100,000 because of bodily injury to or death of two or more persons in any one accident; and

~~(iii)(C) \$10,000~~ \$25,000 because of injury to or destruction of property of others in any one accident.

(ii) The amounts listed in subsection (2)(b)(i) must be adjusted every 5 years by July 1 to reflect

1 inflationary changes, if any, in the consumer price index, U.S. city average, all urban consumers, for all items,
2 as published by the bureau of labor statistics of the U.S. department of labor. The adjusted amounts become the
3 new limits under subsection (2)(b)(i) for policies entered into or renewed on or after July 1 of every fifth year after
4 [the effective date of this act]. The department shall adopt the new limits by rule.

5 (3) An operator's policy of liability insurance must insure the person named as insured ~~therein in the~~
6 policy against loss from the liability imposed upon ~~him~~ the named insured by law for damages arising out of the
7 use by ~~him~~ the named insured of any motor vehicle not owned by ~~him~~ the named insured, within the same
8 territorial limits and subject to the same limits of liability ~~as are set forth above in subsection (2)(b) with respect~~
9 ~~to the operator's policy of liability insurance.~~

10 (4) A motor vehicle liability policy must state the name and address of the named insured, the coverage
11 afforded by the policy, the premium charged ~~therefor~~, the policy period, and the limits of liability and contain an
12 agreement or be endorsed that the insurance is provided thereunder in the policy is in accordance with the
13 coverage defined in this part ~~as respects~~ for bodily injury and death or property damage, or both, and is subject
14 to all the provisions of this part.

15 (5) A motor vehicle liability policy need not insure any liability under any workers' compensation law or
16 any liability on account of bodily injury to or death of an employee of the insured while engaged in the
17 employment, other than domestic, of the insured or while engaged in the operation, maintenance, or repair of a
18 motor vehicle or any liability for damage to property owned by, rented to, in charge of, or transported by the
19 insured.

20 (6) A motor vehicle liability policy is subject to the following provisions, which need not be ~~contained~~
21 ~~therein~~ specified in the policy:

22 (a) The liability of the insurance carrier with respect to the insurance required by this part becomes
23 absolute whenever injury or damage covered by the motor vehicle liability policy occurs. ~~The policy may not be~~
24 ~~canceled or annulled as to the liability by any~~ An agreement between the insurance carrier and the insured may
25 not provide for cancellation or annulment of liability after the occurrence of the injury or damage. ~~No~~ Neither a
26 statement made by the insured or on ~~his~~ the insured's behalf ~~and no~~ nor a violation of the policy may ~~defeat or~~
27 void the policy.

28 (b) The satisfaction by the insured of a judgment for the injury or damage may not be a condition
29 precedent to the right or duty of the insurance carrier to make payment on account of the injury or damage.

30 (c) The insurance carrier has the right to settle any claim covered by the policy, and if the settlement is

made in good faith, the amount is deductible from the limits of liability specified in subsection (2)(b).

(d) The policy, the written application ~~therefor~~ of a policy, if any, and any rider or endorsement ~~which that~~ does not conflict with the provisions of this part constitute the entire contract between the parties.

(7) A motor vehicle policy is not subject to cancellation, termination, nonrenewal, or premium increase due to injury or damage incurred by the insured or operator unless the insured or operator is found to have violated a traffic law or ordinance of the state or a city, is found negligent or contributorily negligent in a court of law or by the arbitration proceedings contained in ~~chapter 5 of Title 27, chapter 5,~~ or pays damages to another party, whether by settlement or otherwise. ~~In no event may a~~ A premium may not be increased during the term of the policy unless there is a change in exposure.

(8) Any policy ~~which that~~ grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and the excess or additional coverage is not subject to the provisions of this part. With respect to a policy ~~which that~~ grants the excess or additional coverage, the term "motor vehicle liability policy" applies only to that part of the coverage ~~which is~~ required by this section.

(9) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this part.

(10) Any motor vehicle liability policy may provide for the prorating of the insurance ~~thereunder~~ under the policy with other valid and collectible insurance.

(11) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers, ~~which if the combined policies together~~ meet such the requirements.

(12) Any binder issued pending the issuance of a motor vehicle liability policy fulfills the requirements for ~~such~~ a policy.

(13) A reduced limits endorsement may not be issued by any company to be attached to any policy issued in compliance with this section."

Section 2. Section 61-6-138, MCA, is amended to read:

"61-6-138. Money or securities as proof of responsibility. (1) ~~Proof of financial responsibility may be evidenced by the~~ A certificate of the state treasurer issued by the department is proof of financial responsibility that the person named ~~therein~~ on the certificate has deposited with ~~him~~ the department an amount equal

1 ~~to that required in 61-6-103(2)(b)(i)(B), as adjusted, in cash; or in securities such as of a type that~~ may legally be
2 ~~purchased by savings banks or for trust funds of and that has~~ a market value of ~~\$55,000~~ the amount equal to that
3 ~~required in 61-6-103(2)(b)(i)(B).~~ The ~~state treasurer shall~~ department may not accept ~~any such a~~ deposit and
4 issue a certificate ~~therefor and the department shall not accept such certificate~~ unless the certificate is
5 accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the
6 county where the depositor resides.

7 (2) ~~Such deposit shall be held by the state treasurer~~ The department shall retain the deposit to satisfy,
8 in accordance with the provisions of this part, any execution on a judgment issued against ~~such the~~ person
9 making the deposit; for damages, including damages for care and loss of services, because of bodily injury to
10 or death of any person; or for damages because of injury to or destruction of property, including the loss of use
11 ~~thereof of the property,~~ resulting from the ownership, maintenance, use, or operation of a motor vehicle after ~~such~~
12 ~~the~~ deposit was made. ~~Money~~ The deposited cash or securities ~~so deposited shall not be~~ are not subject to
13 attachment or execution unless ~~such the~~ attachment or execution ~~shall arise~~ arises out of a suit for damages as
14 ~~aforsaid~~ described in this section."

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16 NEW SECTION. Section 3. Effective date -- applicability. [This act] is effective January 1, 2010, and
17 applies to insurance policies issued or certificates of financial responsibility filed on or after January 1, 2010.

18 - END -